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FM AMEMBASSY KINSHASA
TO SECSTATE WASHDC PRIORITY 3778
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C O N F I D E N T I A L SECTION 01 OF 02 KINSHASA 002321

E.O. 12958: DECL: 12/31/2008

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SUBJECT: KABILA ASSASSINATION TRIAL CONTINUES, HUMAN RIGHTS
ACTIVISTS UNDER PRESSURE

REF: A. KINSHASA 793 B. KINSHASA 876 C. KINSHASA 1520

CLASSIFIED BY: POLITICAL OFFICER PEGGY BLACKFORD FOR REASONS 1.5 (B/D)

¶1. (C) SUMMARY: THE TRIAL OF THOSE ACCUSED OF KILLING
LAURENT KABILA REOPENED TO THE PUBLIC WITHOUT FANFARE AT THE
END OF AUGUST. CLOSING ARGUMENTS ARE EXPECTED SOON. CLEAR
BIAS, A MULTIPLICITY OF PROCEDURAL ERRORS AND LACK OF
EVIDENCE ARE NOT EXPECTED TO AFFECT THE VERDICT WHICH MAY
HAVE BEEN DECIDED LONG AGO IN ADDITION, THE DRC CONTINUES TO
HOLD HUMAN RIGHTS ACTIVIST N'SII LUANDA WITHOUT FORMAL CHARGE
AND TO ARREST MANY WITH TIES TO FORMER PRESIDENT MOBUTU'S
ARMED FORCES ON SUSPICION OF CONCEALING ARMS. END SUMMARY

THE KABILA TRIAL

¶2. (C) THE MILITARY TRIBUNAL FOR THE SUSPECTS IN THE
ASSASSINATION OF FORMER PRESIDENT KABILA, WHICH WAS CLOSED TO
THE PUBLIC MAY 2 ON THE GROUNDS OF NATIONAL SECURITY,
REOPENED AUGUST 27 ACCORDING TO OBSERVERS FROM THE
INTERNATIONAL HUMAN RIGHTS LAW GROUP. POLOFF WAS ADMITTED TO
THE HEARING ROOM ON SEPTEMBER 17; HOWEVER, THE COURT RECESSED
IMMEDIATELY DUE TO THE ILLNESS OF ONE OF THE JUDGES. DOZENS
OF ATTORNEYS WHO HAD MADE A POINTLESS TRIP TO MAKALA PRISON
WERE HEARD TO BE MUTTERING IN ANNOYANCE. PROCEEDINGS ARE NOW
SCHEDULED TO RESUME SEPTEMBER 24 AT WHICH POINT CLOSING
ARGUMENTS ARE EXPECTED TO BEGIN. IN SPITE OF THE PRESENCE OF
TELEVISION CAMERAS IN THE COURT, THE PRESS HAS FAILED TO
COVER THE REOPENED PROCEEDINGS. A LOCAL HUMAN RIGHTS GROUP,
LA VOIX DES SANS VOIX (VSV) WAS SURPRISED TO LEARN OF THE
REOPENING.

¶3. (C) THE LAW GROUP OBSERVERS WERE PARTICULARLY CONCERNED
BY TWO ISSUES. THE FIRST IS A LACK OF LEGAL COUNSEL FOR MANY
OF THE PRISONERS. ALTHOUGH ALL THE PRISONERS TECHNICALLY
HAVE COUNSEL, SOME LAWYERS ARE FAILING TO SHOW UP IN COURT
EVEN WHEN THEIR CLIENTS ARE BEING QUESTIONED. SECOND, THE
OBSERVERS NOTE THE OBVIOUS PRO-GOVERNMENT BIAS OF THE
PRESIDENT OF THE MILITARY COURT, GENERAL NAWEL MUKONGO, WHO
KEEPS A TIGHT REIN ON DEFENDANTS AND THEIR LEGAL
REPRESENTATIVES BUT ALLOWS THE PROSECUTOR, COLONEL CHARLES
ALAMBA, TO MAKE SPEECHES AND ACCUSATIONS WITH LITTLE OR NO
FOUNDATION. MEMBERS OF VSV ALSO COMPLAINED THAT HE HAD
OVERLOOKED PROCEDURAL IRREGULARITIES SUCH AS THE LOSS OF THE
WEAPON USED TO KILL KABILA AND DISCREPANCIES BETWEEN THE
AUTOPSY AND OTHER INVESTIGATIVE REPORTS. THIS IS NAWEL'S
FIRST APPOINTMENT AS JUDGE. HE WAS FORMERLY A PROSECUTOR
HIMSELF.

¶4. (C) CASES ARE PRESENTLY BEING BROUGHT AGAINST 118
SUSPECTS. A HANDFUL WERE NEVER CAPTURED, BUT ROUGHLY A
HUNDRED ARE BEING HELD AT PAVILION ONE IN MAKALA PRISON.
THEY ARE ONLY ALLOWED VISITS FROM THEIR ATTORNEYS AND BRIEF
CONTACT WITH FAMILY OR FRIENDS WHO BRING THEM FOOD. THE LAW
GROUP EXPECTS THAT A VERDICT MAY BE HANDED DOWN BY THE END OF
THE MONTH. AT PRESENT THERE IS NO POSSIBILITY OF APPEAL;
HOWEVER, THE LAW GROUP NOTES THERE WAS TALK OF INSTITUTING AN
APPEAL PROCESS.

DETENTION OF N'SII LUANDA

15. (C) AS REPORTED REFTTEL C, HUMAN RIGHTS ACTIVIST N'SII LUANDA, HEAD OF A LOCAL NGO, THE COMMITTEE FOR THE OBSERVATION OF HUMAN RIGHTS (CODHO) WAS ARRESTED APRIL 19. HE HAS BEEN HELD SINCE THEN ACCUSED OF TREASON AND HARBORING CRIMINALS APPARENTLY BECAUSE OF HIS ACQUAINTANCE WITH A FORMER POLITICAL DETAINEE, MICHEL BISIMWA. ACCORDING TO THE LAW GROUP, N'SII HAS ACCESS TO THREE LAWYERS BUT THEY HAVE NOT BEEN PERMITTED TO ACCOMPANY HIM WHEN HE IS INTERROGATED. HE STILL HAS NOT BEEN FORMALLY CHARGED. HE IS INCARCERATED IN PAVILION 8 OF MAKALA PRISON WHICH IS SOMEWHAT MORE OPEN TO VISITS FROM FAMILY AND FRIENDS THAN PAVILION ONE WHICH HOUSES THE KABILA ASSASSINATION SUSPECTS. NEVERTHELESS THERE HAS BEEN SOME CONCERN ABOUT HIS HEALTH. HUMAN RIGHTS WATCH, WHICH ISSUED A STATEMENT SEPT. 11 CALLING ON PRESIDENT JOSEPH KABILA TO RELEASE N'SII, CLAIMED THAT HE IS SUFFERING FROM MALARIA. LAW GROUP REPRESENTATIVES DID NOT BELIEVE THAT N'SII'S CONDITION WAS SERIOUS.

HUMAN RIGHTS GROUP OVERWHELMED

16. (C) MEMBERS OF THE VOIX DES SANS VOIX INTERVIEWED BY POLOFF SEPT.17 DESCRIBED THEMSELVES AS OVERWHELMED WITH CASES. THEY WERE ESPECIALLY CONCERNED WITH A NUMBER OF ARRESTS MADE IN KINSHASA IN APRIL AND MAY 2001 AND AGAIN IN JULY AND AUGUST OF THIS YEAR OF NATIVES OF THE EQUATEUR REGION. VSV HAS SINCE ISSUED A PRESS RELEASE IDENTIFYING SEVEN PEOPLE, MEMBERS OF OR WITH TIES TO THE FAZ (EX-PRESIDENT MOBUTU'S ARMED FORCES), WHO ARE BEING HELD ON SUSPICION OF CONCEALING ARMS THE HEAD OF VSV, FLORIBERT CHEBAYA, TOLD POLOFF OF HIS DISAPPOINTMENT WITH PRESIDENT JOSEPH KABILA WHO HAS FAILED TO LIVE UP TO HIS PLEDGES UPON COMING TO POWER. SECURITY FORCES OPERATE WITH IMPUNITY. HE WAS PARTICULARLY CRITICAL OF ALAMBA, PROSECUTOR IN THE KABILA TRIAL, WHOM HE ACCUSED OF TAKING PRISONERS SO THAT HE CAN CLAIM THE PROPERTY OF HIS VICTIMS. HE HAD EVEN THREATENED TO USE WEAPONS TO DETER NGOS FROM ORGANIZING A SIT-IN TO DEMAND THE RELEASE OF N'SII LUANDA AND ANOTHER ACTIVIST WILLY WENGA.

COMMENT

17. (C) ALTHOUGH THE HUMAN RIGHTS SITUATION IN THE DRC HAS IMPROVED IN MANY RESPECTS OVER THE PAST 18 MONTHS, THE JUSTICE SYSTEM AND THOSE WHO ARE SUPPOSED TO UPHOLD IT HAVE A LONG WAY TO GO BEFORE THEY CAN BE CONSIDERED EVEN marginally RELIABLE OR ACCOUNTABLE. THE KABILA TRIAL IN PARTICULAR WITH ITS ECCENTRIC PROCEEDINGS, MULTIPLE AND EVER GROWING NUMBER OF ACCUSED, BIASED RULINGS AND BIZARRE LAPSES LEADS ONE TO SPECULATE THAT KAFKA MIGHT REALLY HAVE BEEN CONGOLESE.

HOOKS